



GUIDELINES FOR POLICE PERSONNEL ON VARIOUS HUMAN RIGHTS ISSUES



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भयान्तरं सुखिनः

National Human Rights Commission
INDIA

Guidelines for Police Personnel on Various Human Rights Issues



**National Human Rights Commission
Faridkot House, Copernicus Marg,
New Delhi-110 001**

Guidelines for Police Personnel on Various Human Rights Issues

First Edition: 10 December 2010

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Faridkot House, Copernicus Marg, New Delhi-110 001

Printed at : Shri Ganesh Associats

C-83/11, Street No.-7, Mohanpuri, Moajpur, Delhi-110 053

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Foreword

National Human Rights Commission (NHRC) considers that policing and human rights issues are very important for the State as well as for the citizens.

The role of the policemen in today's age extends well beyond upholding of the rule of law and prevention and investigation of crime. They not only protect human life and property—a basic human right, but are also expected to implement the significant social legislations which aim at removing discrimination against minorities, poorer sections of society, women, etc.

Such a task can be effectively achieved only when the policemen are clear about the specific human rights. By

the very nature of their duties, police personnel have to deal with victims of crime, as well as people who are in conflict with the law. Therefore, police must be sensitive to the rights of individuals, in particular to the rights of the marginalized sections of the society and treat them with dignity while performing their duties.

In the larger perspective, respect for human rights is not just an issue of rights, but actually helps the police in effective law enforcement.

These guidelines being published by the Commission would be particularly useful for the Constables, who form the bulk of our police force and very often find themselves in the role of first defenders

of human rights. This booklet aims to help them perform their tasks effectively.

The Commission would like to place on record the appreciation of the efforts put in by Research Officer, NHRC Dr. Aparna Srivastava in designing the content, writing the first few chapters and for compilation as well. Officers from the Investigation Division have contributed in writing other chapters. The project was undertaken under the supervision of, Shri Satinder Pal Singh, IPS DIG, NHRC and the overall guidance of Shri. Sunil Krishna, IPS Director General (Investigation).

10 December



PC Sharma

Member

National Human Rights Commission

Chapter 1

ARREST

Law empowers the police to arrest people in certain circumstances and to use force for doing so, if it becomes necessary.¹

'Studies show that the number of preventive arrests and arrests for petty offences were substantially large, the percentage of under trial prisoners was unusually high and most of them were there because they were not able to post bail or furnish sureties'.²

Arrest and detention does incalculable damage to a person's reputation. Our system, unfortunately, has no way of compensating the people who are needlessly arrested.

1. Section 46 of Cr.PC.

2. Law Commission of India- Consultation paper on Law relating to arrest, Nov 2000

DOs

1. Ensure that no person is deprived of his/her right to life or personal liberty, except in accordance with the procedure established by law (Art. 21 of the Indian Constitution).

2. Ensure that the identity of the police officer effecting arrest is clearly indicated by means of a name plate and rank. (Guidelines on Arrest : DK Basu vs State of West Bengal AIR 1997 SC 610).

3. Ensure that the arrestee is informed of the full particulars or the grounds of arrest (Art 22 of the Indian Constitution).

4. Ensure that a relative or a friend of the arrestee is informed about the fact of arrest and the place where he/she is being detained (Section 50A (1) Cr. PC)

5. Ensure that information regarding the arrest and the person informed about the arrest is recorded in the designated register kept in the police station(Section 50A (3) Cr.PC).

6. Ensure that if some injuries are found on the body of the arrested person at the time of arrest, the same are specified in the Arrest Memo and the arrested person is medically examined.

7. Ensure that no woman is arrested after sunset and before sunrise, other than in exceptional circumstances (Section 46(4) Cr. PC).

8. Ensure that a woman police officer is associated while effecting arrest of a woman (Section 46 (4) Cr. PC).

9. Ensure that no force or beating is

administered under any circumstances while effecting arrest of a juvenile or a child. Respectable citizens may be associated while arresting juveniles and children.

10. Protect the human dignity of the person being arrested. Public display or parading of the person arrested should not be permitted.

11. Conduct search of the arrested person with due respect to his/her human dignity. Avoid unnecessary use of force and respect his/her right to privacy. Searches of women should be conducted only by other women, with strict regard to decency (Section 51(2) Cr.P.C.)

12. In case of a bailable offence, inform the arrested person of his/her

entitlement to be released on bail so that (s)he may arrange for sureties.

13. Inform the Police Control Room and the District/State Headquarters about the arrest and the place of detention.

DON'Ts

1. Do not arrest a person without warrant, unless there is a reasonable satisfaction, on the basis of investigation done, about the person's involvement in a cognizable offence and there is a need to affect his/her arrest. (Section 41, Cr. PC).

2. Do not arrest a person unless the commission of an offence cannot otherwise be prevented (Section 151, Cr.PC).

3. Do not use more force than is

necessary to restrain an arrested person (Section 49 Cr.PC and Art. 21 of the Indian Constitution).

4. Do not summon to police station, a woman or any male person, below 15 years of age associated with a case. The questioning of any such person may be done by the police officer only at the place of residence of such woman/minor. (Section 160 (1) Cr.PC).

5. Do not detain any arrested person beyond 24 hours without the express order of a Magistrate (Section 57 Cr.PC).

6. Do not use handcuffs or fetters on arrested person unless you have recorded reasons and obtained orders of the Court for such use.



Chapter 2

DETENTION

A person detained by the police, whether for questioning, for the purpose of verification of identity, to test alcohol level, etc. comes under the custody of police and is, therefore, under the care of the State. It is the responsibility of the State to ensure protection of the human rights of all persons in its custody.

DOs

1. Ensure that a written order is sent to any person who may be required to come to the police station for the purpose of questioning. (Section 160(1) Cr.PC).
2. Ensure that family members or

friends of any person detained by the police are aware of his whereabouts.

3. Ensure that whenever any person is detained in the police station, proper entry is made in the General Diary.

4. Ensure prompt medical attention for anyone detained by the police, in case the need so arises.

5. Treat all detainees with the dignity due to any human being.

DON'Ts

1. Do not subject any person in detention to torture, or to any cruel, inhuman or degrading treatment or punishment.

2. Do not compel a person in

detention to confess, to otherwise incriminate him/herself or to testify against any other person.

3. Do not detain anyone for a prolonged period in the name of interrogation as this may amount to harassment and wrongful confinement.



Chapter 3

PROTECTION OF WOMEN

The Constitution of India guarantees equality to women. Crime against women has always been a very important issue with the law enforcement in India.³

DOs

1. Ensure that a woman is searched only by another female, with strict regard to privacy and decency (Section 51(2) Cr.PC).

2. Ensure that a woman suspect is kept in a separate lock-up in the police station (S.C. Judgment, Sheela Barse v. State of Maharashtra).

3. A total of 1, 85,312 incidents of crime against women (both under IPC and SLL) were reported in the country during 2007.

3. As far as possible, a woman police officer should be associated while effecting arrest of a woman (Section 51 (2) Cr.PC).

4. Report to the SHO any instance of domestic violence that comes to your notice.

5. Be sympathetic to women victims of crime, especially rape and molestation, and give due respect to their privacy.

6. In cases of domestic violence, inform the aggrieved woman of her right to obtain relief by way of a protection order.⁴

DON'Ts

1. Do not summon a woman associated with a case to a police station.

4. Section 5 of The Protection of Women From Domestic Violence Act, 2005.

The questioning of any woman can only be done at her place of residence (Section 160 (1) Cr.PC).

2. Do not arrest a woman after sunset and before sunrise, other than in exceptional circumstances (Section 46 (4) Cr.PC).



Chapter 4

PROTECTION OF CHILDREN

The Constitution of India—Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy) contains provisions for survival, development and protection of children, while the Juvenile Justice (Care and Protection of Children) Act 2000 provides a uniform legal framework of justice across the country for the protection of children up to the age of 18 years.

DOs

1. Treat Children politely and interrogate them preferable while dressed in civil clothes.
2. If a child is to be interrogated,

question him at the place where he ordinarily resides (Section 160 Cr. PC).

3. Do ensure that as soon as a juvenile in conflict with law is apprehended by police, he is placed under the charge of the special juvenile police unit or the designated police officer (Section 10 of the JJ Care and Protection Act 2000).

4. In case of arrest, verify the age of the child before deciding upon further course of action.

5. In case of arrest, ensure that the child is produced before a juvenile court without delay. The time taken, in any case, should not exceed 24 hours (Section 57 Cr.PC).

6. The employment of children in

factories, mines and hazardous employment is prohibited (Art. 24 of the Indian Constitution). Identify and report any such instances to the concerned authorities (Section 3 of Child Labour Prohibition & Regulation Act 1986).

7. Take steps to get any child released if he is kept in Bondage (Bonded Labour System (Abolition) Act 1976).

8. Child Marriage is prohibited by Hindu Marriage Act 1955. Take steps to prevent the same.

DON'Ts

1. Do not call any female child to the police station for questioning (Section 160 Cr.PC).

2. Do not call any male child less than 15 years of age, to the police station for

questioning. (Section 160 Cr. PC).

3. Do not keep a Juvenile in police lockup (Section 18, Juvenile Justice Act 1986).

4. Do not arrest a child below the age of 7 yrs.⁵

5. Do not disclose the identity of an arrested juvenile to the media.

6. Do not charge sheet a Juvenile along with an adult, even for the same offence.



5. Nothing is an offence which is done by a child under seven years of age. (S. 82 IPC).

Chapter 5

PROTECTION OF THE RIGHTS OF SCHEDULED CASTES AND SCHEDULED TRIBES

SCs/STs together comprise over 24% of India's population, with SCs at over 16% and STs over 8%, as per the 2001 census.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is a special legislation to check and deter crimes committed against SCs & STs.

DOs

1. Treat persons belonging to SC/ST communities equally before law (Art.14,

Indian Constitution).

2. Inform the Officer In-charge of the concerned Police Station about all information relating to the commission of an offence under the SC/ST (Prevention of Atrocities) Act, 1989.

3. Make people belonging the SC/ST community in your jurisdiction aware of the rights and protection provided to them under the SC/ST (Prevention of Atrocities) Act, 1989.

DON'TS

1. Do not discriminate any citizen on the basis of his/her caste (Art. 15, Indian Constitution).

2. Do not inflict any degrading

treatment on persons taken into custody, especially those belonging to SC/ST communities (Art. 21, Indian Constitution).

3. Do not allow any one to promote and practice untouchability (Art. 17, Indian Constitution).



Chapter 6

PROTECTION OF THE RIGHTS OF SENIOR CITIZENS

Aging is a natural process, which invariably occurs in the human life cycle. It brings with it a host of challenges in the life of the elderly, especially with the decline in the functional capacity of the organs of the human body. All citizens and especially the police have a moral obligation to protect the rights of the senior citizens (age 60 and above).⁶

DOs

1. It is the duty of the children to maintain their old mother and father if they can not maintain themselves (Section 125, Cr.PC).

6. The National Policy of Older Persons recognizes a person who is 60 years of age and above as a Senior Citizen.

2. In view of their vulnerability, interact regularly with the senior citizens in your area/beat.

3. In the event of an unavoidable arrest of a senior citizen, extend due courtesy and get him/her medically examined as soon as possible.

4. Give due respect whenever a senior citizen visits the PS and attend to his/her problem on priority.

DON'Ts

1. Do not arrest or detain a senior citizen unless it is absolutely necessary.

2. Never act rough or be harsh with senior citizens caught up in law and order problems.



Chapter 7

PROTECTION OF THE RIGHTS OF MINORITIES

Discrimination on the ground of religion is prohibited under Articles 14, 15 and 16 of our Constitution. In addition, Articles 29 and 30 of the Constitution deal with the cultural and educational rights of the Minorities.⁷

DOs

1. Deal with the matters of minorities with due caution and in a sensitive manner.
2. Visit prayer houses regularly and keep an eye for mischief mongers out to create communal tensions.

7. The Chapter refers only to Religious minorities

3. Be extra vigilant during festivals and take preventive measures in the communally sensitive areas.

4. While visiting houses, places of worship, or institutions of members of a minority community, give due respect to their sentiments and religious practices.

5. Keep in regular Touch with important people from minorities. Their support comes handy in conflict situations.

6. Do ensure people's freedom to practice and profess any religion. (Art. 25(1), Indian Constitution).

7. Be courteous to the important religious persons of all communities.

DON'Ts

1. Do not exhibit any bias while dealing with matters pertaining to any religious community.
2. Do not discriminate against citizens on grounds of religion (Art. 15(1), (2) of the Constitution).
3. Do not ignore or delay action on any information/complaint related to religious issues.



Chapter 8

Forced/Bonded Labour and Policing

Article 23 of the Indian Constitution prohibits begar and other similar forms of forced labour. Under the Bonded Labour System (Abolition) Act, 1976, the identification and release of bonded labourers and rehabilitation of freed bonded labourers is the direct responsibility of the State Government concerned.

DOs

1. Be vigilant about practices of forced/bonded labour in your area/beat and promptly inform the District Authorities in case of any allegations of bonded/forced labour.
2. Help the District authorities in evacuation of the released labourers from

the place of work.

3. Take suitable action (under various Acts) if the labourers belong to the weaker sections of the society like children, women, minorities, and SC/ST.

DON'Ts

1. Do not get the laboureres released without proper enquiry by Executive Magistrate under the provisions of the Bonded Labour System (Abolition) Act, 1976.

2. Do not involve yourself in settling the financial matters.

3. Do not pass judgmental remarks during the enquiry about existence of bonded labour.

4. Do not behave arrogantly before the aggrieved labourers.



Chapter 9

ENCOUNTERS

In the context of Police operations, an ‘encounter’ is normally referred to a situation when Police employs lethal force using firearms against armed criminals/offenders. Under such situations, use of force by the police personnel is usually resorted to in self-defence.

DOs

1. When faced with armed criminals/offenders, challenge them first and ask them to surrender.
2. Use force in self-defence only to protect yourself and others from the actions of the assaulting criminals/

offenders, whose actions reasonably cause the apprehension of death or grievous hurt to you or to others (Section, 97 IPC).

3. Use of force for self-defence should start only when there is a reasonable apprehension of danger to the body arising from the act or threat to commit an act by the assaulting offenders/criminals. Moreover, use of force for self-defence should continue only as long as such apprehension of the danger to the body continues (Section, 102 IPC).

4. Use force for self-defence to the extent of causing death or any harm to the assaulting offenders/criminals only if an assault by them reasonably causes the apprehension of death or grievous hurt to you or to others (Section 100, IPC)

DON'Ts

1. Do not resort to firing on the offenders/criminals merely upon seeing them armed with weapons.

2. Do not use excessive force; the nature and quantum of force should be in proportion to the nature and quantum of force used by the assaulting offenders/criminals.

3. Do not use force such as to inflict more harm to the assaulting criminals/offenders than is necessary for the purpose of defence of your body and those of others (Section 99, IPC).



Chapter 10

TERRORISM AND POLICING

Terrorism is an extreme 'law and order' situation which requires a balanced response from the police under provocative circumstances. Dealing with terrorism involves police operations such as investigation of terrorist incidents, cordon and search operations for arrest of the terrorists, ROP (Road Opening Party) duties, search/frisking of civilians, check point (Naka) duties, etc.

DOs

1. Maintain good relations with the locals in the area. This will help in getting information about the terrorists and their activities. Good relations with the locals

will also facilitate the defusing volatile law and order situations; which often arise due to police actions in terrorists-affected areas.

2. Take local representatives along during conduct of searches in houses, while ensuring their safety.

3. Treat civilians with due courtesy while conducting physical search in public places.

4. Ensure that women are searched only by lady police personnel, with strict regard to decency.

5. Treat women with utmost respect during search operations and check point duties.

6. Treat elder persons and children

sympathetically.

7. Observe the rights of arrested terrorists in the same manner as is done in case of an arrested offender or criminal.

8. Challenge and ask armed terrorists to surrender before taking action against them. Use of force for self defense should be resorted to only when there is reasonable apprehension of death or grievous hurt.

9. Take steps to minimize collateral damage to civilians and their properties during police operations.

DON'Ts

1. Do not use civilians as a shield against the terrorists during encounters/

search operations.

2. Do not torture an arrested terrorist to extract information.

3. Do not keep terrorists or suspects in illegal confinement.

4. Do not over-react after a terrorist incident.

5. Do not unnecessarily harass the civilians around the place of incident.

6. Do not ask for food or other conveniences from the local public while on ROP duties or search operations.





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